

(B) If the Executive Vice President, CCC, determines that damaging weather such as drought, hail, excessive moisture, freeze, tornado, hurricane or excessive wind, or related condition such as insect infestations, plant diseases, or other deterioration of the peanut crop, including aflatoxin, is expected to have significant national impact on peanut production, the Executive Vice President may extend nationally, by up to 15 days, the final date for submitting contracts for approval. Such announcement shall be made no later than September 5 of the year in which the crop is produced.

(c) *Contract approval.* (1) A contract between a handler and a producer for additional peanuts for crushing or export shall not be approved by the county committee, if otherwise eligible, unless the county committee has been notified by the State Executive Director that the handler has been approved to contract additional peanuts and that such handler has submitted the letter of credit that is required in accordance with the provisions in this part.

(2) In order to be approved, the following information must appear on the contract:

- (i) The name and address of the operator;
- (ii) The name and address of each producer sharing in the proceeds of the contract additional peanuts;
- (iii) The State and County code, and farm number of the farm on which the additional peanuts are to be produced;
- (iv) The name, address, and registration number of the handler;
- (v) The pounds of Segregation 1, Segregation 2, and/or Segregation 3 peanuts that are contracted;
- (vi) The final contract price to be paid by the handler and shown as a set percentage of the loan rate for quota peanuts of the type indicated on the contract; except that such final contract price shall not be less than the additional loan rate for the type of peanut indicated on the contract. A contract or an addendum to a contract that provides for a conditional supplemental payment to the producer will not be considered to negate the final contract price only if the supplemental payment to be made is expressed in a manner that a third party may deter-

mine the amount of the supplemental payment without a need for additional negotiations;

(vii) A disclosure by the producer of any liens or encumbrances on the peanuts;

(viii) The signature of the farm operator;

(ix) The signature of each person having an interest as a producer in the contract additional peanuts that are produced on the farm;

(x) The signature of the handler or the authorized agent of the handler; and

(xi) A prohibition against changing the price.

(3) The county committee, or a person designated in writing by the county committee, shall approve each form CCC-1005 that conforms with the provisions in this section.

[56 FR 16230, Apr. 19, 1991, as amended at 56 FR 38329, Aug. 13, 1991; 61 FR 37624, July 18, 1996]

**§ 1446.402 Approval as handler of contract additional peanuts.**

(a) *General.* By June 15 preceding the beginning of the marketing year in which such additional peanuts will be acquired, any handler who plans to acquire contract additional peanuts in accordance with this part for crushing or for exporting must:

(1) *Application.* File an application with each marketing association that serves the area in which such handler plans to acquire contract additional peanuts. Such application:

(i) *Form.* Must be on a form or in a format provided by the marketing association.

(ii) *Method of supervision.* Must indicate the method of supervision, physical or nonphysical, selected by the handler for purposes of accounting for the disposition of any contract additional peanuts acquired by such handler.

(2) *Evidence of adequate assets and adequate facilities.* Provide evidence that is acceptable to the marketing association and CCC that such handler has:

(i) *Assets.* Adequate assets to assure compliance with the provisions in this

part with respect to such handler's obligation to crush or export contract additional peanuts acquired by such handler; and

(ii) *Facilities.* Adequate facilities to handle the acquisition and disposition of any contract additional peanuts acquired by such handler.

(3) *Letter of credit for prior crop years.* Establish an irrevocable letter of credit, or increase any existing letter of credit applicable for a previous crop year, in an amount necessary to cover any outstanding marketing penalties on peanuts produced in such crop year which are still under administrative appeal or are unpaid. This requirement is in addition to any letter of credit requirement for the current year.

(b) *Approval.* The marketing association, acting on behalf of CCC, shall approve, in accordance with this part, each application that is timely filed in accordance with this section, or is filed by such extended time as may be approved by the Executive Vice President, CCC, provided that in either case, the applicant:

(1) Has selected a method of supervision;

(2) Has a U.S. address;

(3) Has provided evidence of adequate assets and adequate facilities to assure compliance with the provisions in this part with respect to the disposition of contract additional peanuts; and

(4) Has complied with the requirements of paragraph (a)(3) of this section.

(c) *Rescission of approval.* Unless the Executive Vice President, CCC, shall otherwise agree in writing, a handler's previous approval to contract for the purchase of additional peanuts for exporting or crushing and to receive and handle such peanuts shall be considered to be rescinded upon such handler's use of facilities, other than those on which the approval was based, to receive, store, process, or ship contract additional peanuts. However, a rescission will not apply if substituted facilities are approved by the association, in accordance with instructions issued by CCC, when the handler can show, as determined by the association subject to review by the Executive Vice President, that the original facilities are no longer available for use due to cir-

cumstances beyond the handler's control such as, but not limited to, fire, flood, wind damage, or mechanical failure. In the event of rescission of a handler's approval, any purchases of peanuts from producers by such handler subsequent to the rescission will be considered as purchases of quota peanuts and will subject the handlers and producers to penalties, as prescribed by this part and in 7 CFR part 729 for marketing excess quota peanuts unless such peanuts are recorded on the producer's marketing card as a marketing of quota peanuts.

(d) *Cost of supervision.* The handler shall bear the cost of supervision irrespective of the method of supervision such handler has chosen.

[56 FR 16230, Apr. 19, 1991, as amended at 56 FR 38329, Aug. 13, 1991]

**§ 1446.403 Letter of credit.**

(a) *Certification and financial guarantee (letter of credit)*—(1) *Certification.* In order to establish a letter of credit, each handler must certify to the applicable marketing association the quantity of additional peanuts the handler expects to contract for delivery by producers that are served by such marketing association. The certified poundage will be the basis for establishing the letter of credit for the applicable crop. If the certified poundage is less than the actual contracted poundage, the letter of credit required of the handler for the next marketing year shall be subject to increase, as provided in this section.

(2) *Letter of credit.* The handler must present an irrevocable letter of credit to each marketing association that serves the area in which a handler plans to contract or otherwise acquire contract additional peanuts. Such letter of credit shall be issued in a form and by a bank which is acceptable to CCC and except as provided in paragraph (d) of this section shall be submitted to the appropriate marketing association not later than July 31 and before marketing cards will be issued to producers for contract additional peanuts. Unless the provisions of paragraphs (b) and (c) of this section are applicable, the amount of the letter of credit for each area shall be equal to the amount determined by multiplying